

**IN THE SUPREME COURT OF BANGLADESH
APPELLATE DIVISION**

Present:

Mr. Justice Syed Mahmud Hossain, Chief Justice

Mr. Justice Muhammad Imman Ali

Mr. Justice Hasan Foez Siddique

Mr. Justice Mirza Hussain Haider

Mr. Justice Abu Bakar Siddiquee

Mr. Justice Md. Nuruzzaman

CIVIL APPEAL NO. 28 OF 2019.

Md. Fazlul Haque Sarder and others

.....Appellants.

-Versus-

Grameen Phone Limited and others

.....Respondents.

For the Petitioners : Mr. Mahbubey Alam, Senior Advocate instructed by
Mr. Chowdhury Md. Zahangir, Advocate-on-Record.

For the Respondents : Mr. Mohammad Abdul Hai, Advocate-on-Record.

Date of hearing : The 6th August, 2020

ORDER

In course of hearing this appeal by virtual means, the learned Attorney General mentioned the difficulties being faced by the litigants of this country due to the effects of Covid-19. He elaborated that there are numerous cases where special limitations apply and it has not been possible for the parties to any litigation to physically go to the Courts for remedy. He explained that the relentless incidence of Covid-19 is causing fear among the citizens, so much so that even when the Courts reopen, they will be fearful of going to the Courts immediately. He further stated that the Subordinate Courts are open from 5th August, 2020, but there is no certainty that the need will not arise to lockdown again, as is happening in many parts of the world. In such circumstances, he submits that the need is there to have an open-ended safeguard like that pronounced by the Supreme Court of India in Suo Motu WP (C) No.3 of 2020 allowing a blanket extension of all periods of limitations in all proceedings, including limitations specified in special laws, till further order.

Mr AM Aminuddin, learned Senior Advocate and President of the Supreme Court Bar Association, expressed similar views. Both the leaders of the Bar were supported by other senior members of the Bar, including Mr AF Hassan Ariff, Senior Advocate and former

Attorney General for Bangladesh and Mr. M. Qumrul Haque Siddique.

Mr Murad Reza, learned Additional Attorney General has kindly furnished us with details of how other countries, such as the UK, Italy, Spain, the USA, Australia, Canada, India and Sri Lanka have dealt with the issue now raised before us.

It appears that different countries have dealt with the issue in different ways, but all have applied some sort of concession in view of the emergent situation created by Covid-19 pandemic.

We have given our most anxious thought to the issues raised from the Bar. Indeed it is an extraordinary and unprecedented situation that has caused turmoil across the globe. The law makers did not and could not have foreseen such calamitous act of God. Our laws on limitation cannot be expected to cover this kind of uncertainty. Needless to say, the litigant public have faced and still face serious challenges in filing petitions/ applications /suits/ appeals/revisions etc.

In the prevailing facts and circumstances, bearing in mind that there appears to be a likely spike in the incidence of Covid-19 in the aftermath of Eid ul Azha celebrations, we consider it our bounden duty to come to the aid of the litigant public. In these extraordinary circumstances we are inclined to overlook the niceties of the existing laws for the sake of justice. The right of the litigant to come before the Court to seek remedy may not be thwarted by the emergent situation which is beyond all control and cannot be averted by humankind.

We are conscious of the fact that the existing laws do not give any Court or Tribunal the authority to extend the period of limitation provided under any special law. However, we are also aware of the singularly unprecedented, unwonted and totally unavoidable circumstances which has compelled people all over the world to be confined to their homes.

Therefore, in exercise of our power and the authority vested in us by the Constitution under article 104, it is thus ordered that any period of limitation in filing petitions/applications/ suits/appeals/revisions/all other proceedings, civil, criminal or administrative, under general or special laws, which expired on or after 26 March, 2020

stands extended till 31st August, 2020.

This order has been passed to do complete justice and is a binding order within the meaning of article 111 of the Constitution on all Courts/Tribunals.

C.J.

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The 06th August /2020.

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